

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

7-15-93/LA

The Goa State Guarantees Act, 1993 (Goa Act 16 of 1993) which has been passed by the Legislative Assembly of Goa on 12-7-1993 and assented to by the Governor of Goa on 24-8-1993 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 3rd September, 1993.

The Goa State Guarantees Act, 1993

(Goa Act No. 16 of 1993) [24-8-1993]

AN

ACT

to fix a limit upto which the executive power of the State of Goa shall extend to the giving of guarantees.

Be it enacted by the Legislative Assembly of Goa in the Forty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa State Guarantees Act, 1993.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires, —

(a) 'Official Gazette' means the Official Gazette of the State Government;

(b) 'State Government' means the Government of Goa.

3. *Fixation of limit upto which State may give guarantees.*— (1) The limit upto which the executive power of the State Government shall extend to the giving of guarantees (including guarantees given before the commencement of this Act) as provided in clause (1) of Article 293 of the Constitution of India, shall be the sum of Rs. 40.00 crores.

(2) The State Government shall lay before the State Legislature, —

(a) a Statement of any guarantee given as soon as may be after it is given but not later than three months; and

(b) within three months after the end of any financial year in which any guarantees so given are in force, an account of the total sums, if any, which during that year have been either issued out of the Consolidated Fund of the State or paid in or towards repayment of any sum so issued.

Secretariat Annexe,
Panaji,
Dated: 3-9-1993.

B. S. SUBBANNA,
Secretary to the Government of Goa,
Law Department (Legal Affairs)

Notification

7-19-93/LA

The Goa Sales Taxes (Amendment) Act, 1993 (Goa Act 17 of 1993) which has been passed by the Legislative Assembly of Goa on 19-7-1993 and assented to by the Governor of Goa on 24-8-1993, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 3rd September, 1993.

The Goa Sales Tax (Amendment) Act, 1993

(Goa Act No. 17 of 1993) [24-8-1993]

AN

ACT

further to amend the Goa Sales Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa in the Forty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.* — (1) This Act may be called the Goa Sales Tax (Amendment) Act, 1993.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 3.* — In sub-section (2) of section 3 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"),—

(i) for the words "Assistant Commissioner of Sales Tax", the words "Deputy Commissioner of Sales Tax" shall be substituted;

(ii) the existing clause (a) shall be re-numbered as (aa) and before clause (aa) so re-numbered, the following clause shall be inserted, namely:—

"(a) Assistant Commissioner of Sales Tax."

3. *Amendment of section 4.* — In sub-section (5) of section 4 of the principal Act,—

(i) in clause (a), for the words and figures "not less than Rs. 1,500/- (Rupees one thousand five hundred),— ten thousand rupees", the words and figures "not less than Rs. 3,000/- (Rupees three thousand),— twenty thousand rupees" shall be substituted;

(ii) in clause (b), for the words and figures "less than Rs. 1,500/- (Rupees one thousand five hundred),— twenty thousand rupees", the words and figures "less than Rs. 3,000/- (Rupees three thousand),— thirty thousand rupees" shall be substituted;

(iii) in clause (c), for the words "rupees one thousand five hundred", the words "Rupees five thousands" shall be substituted;

(iv) in clause (d), for the words "fifty thousand rupees", the words "seventy five thousand rupees" shall be substituted.

4. *Amendment of section 7.* — In the proviso to item (III) of sub-section (3) of section 7 of the principal Act, for the words and figures "entry 68 of the Second Schedule", the words and figures "entry 68 or entry 85 of the Second Schedule" shall be substituted.

5. *Amendment of section 15.* — In section 15 of the principal Act,—

(i) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(4A) If default is made in making payment in accordance with sub-section (3) or sub-section (4),—

(i) the whole of the amount outstanding on the date of default shall become immedi-

tely due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the person or persons liable to pay tax or any other amount due under this Act shall also be liable to pay interest during the period of default as under:

(a) one and half percent on the amount of tax remaining unpaid for each month for the first three months after the expiry of the time prescribed;

(b) two percent on such amount for each month subsequent to the first three months as aforesaid.

Explanation: — For the purposes of clause (ii), the interest payable for a part of the month shall be proportionately worked out.

(4B) Notwithstanding anything contained in the aforesaid sub-section, the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(4C) Any tax assessed, or any other amount due under this Act from a dealer or any other person may without prejudice to any other mode of collection be recovered,—

(a) as if it were an arrear of land revenue; or

(b) by attachment and sale or by sale without attachment, of any property of such dealer or any other person by the Officer appointed under sub-section (2) of section 3, in accordance with such rules as may be prescribed;

(ii) for the proviso to clause (b) of sub-section (6), the following shall be substituted, namely:—

"Provided that the Commissioner or any person appointed to assist him under sub-section (2) of section 3, may, in respect of any particular dealer or person, and for reasons to be recorded in writing and on payment of interest at such rate as may be specified in the order, extend the date of such payment, or allow him to pay tax due or penalty or interest levied, if any, by instalment";

(iii) for clauses (a) and (b) of sub-section (7), the following clauses shall be respectively substituted, namely:—

"(a) When a dealer is in default in making payment of the tax assessed or re-assessed or of penalty imposed or interest levied, there shall be paid by such dealer for the period commencing from the date of expiry of the date specified in the notice for payment and ending on the date of payment of the amount, simple interest at the rate of 20% per annum of the amount not so paid.

(aa) Notwithstanding anything contained in clause (a), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(b) Any amount of tax or penalty or interest which remains unpaid after the date prescribed for payment or the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any instalments not duly paid shall be recoverable as arrears of land revenue:

Provided that, notwithstanding anything contained in this Act or in the rules made thereunder but subject to such conditions as the Government or the Commissioner, as the case may be, if it or he thinks fit, may by general or special order specify, where a dealer to whom incentives by way of deferment of sales tax has been granted by virtue of eligibility certificate, and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by the Economic Development Corporation/Maharashtra State Financial Corporation/Scheduled Bank, then such tax shall be deemed to have been paid.

6. *Amendment of section 17.*—In section 17 of the principal Act,—

(i) in sub-section (4), after the words and figures “the amount of tax assessed a sum not exceeding one-and-half times the amount of tax so assessed”, the words and figures “and the interest determined to be payable under sub-section (4A) of section 15, the sum not exceeding one-and-a-half times of the amount of tax and interest so assessed” shall be inserted;

(ii) after sub-section (6), the following sub-section (6A) shall be inserted, namely:—

“(6A) When an assessment under sub-section (6) is not concluded within the time specified therein, the total and taxable turnover declared by a dealer in his returns shall be deemed to have been assessed for that year on the basis of the said returns and the provisions of this Act relating to assessment of escaped turnover, payment and recovery, appeal and revision shall *mutatis mutandis* apply to such deemed assessment.”

7. *Insertion of new section 17 A.*—After section 17 of the principal Act, the following section shall be inserted, namely:—

“17A.—*Summary assessment of certain dealers.*—(1) Notwithstanding anything contained in sub-section (2) of section 17 but subject to the provisions contained in the Scheme formulated for the purpose of this section where, in respect of any year, the total turnover of a dealer, is not more than rupees five lakhs and the combined sales tax liability is of Rs. 10,000/- or less under this Act and the Central Sales Tax Act, 1956 (Central Act 74 of 1956), the Commissioner may at his discretion, but subject to the other provisions of this Act, assess such dealer on the basis of the original returns or the revised returns, as the case may be, without requiring his presence or the production by him of his books of accounts.

(2) For the purpose of sub-section (1), a dealer who is eligible to be summarily assessed under the provisions of this section, may,—

(i) in respect of any completed year of his accounts, the assessment for which is pending

on the date on which the Goa Sales Tax (Amendment) Act, 1993 comes into force, submit to his assessing authority—

(a) the return relating to his turnover under sub-section (2) of section 15, if the same has not been submitted by him earlier;

or

(b) the revised return in the prescribed manner if the return had been submitted by him earlier,

within the period of forty five days from the date on which this section comes into force; and

(ii) in respect of subsequent accounting years submit to his assessing authority, the return relating to his turnover under sub-section (2) of section 15:

Provided that the return (s) or revised return (s) to be submitted by a dealer under the provisions of this sub-section shall be accompanied by the enclosures specified in sub-section (3):

Provided further, that no penalty under the provisions of sub-section (4) of section 17 shall be levied nor any prosecution under the provisions of clause (b) of section 30 be instituted or continued in respect of a dealer, who submits a revised return in respect of any completed year of his business in accordance with the requirements of this section.

(3) The return for the last quarter of the year or annual return wherever prescribed to be submitted by a dealer under this section shall be accompanied by the following enclosures, namely:—

(i) Satisfactory proof of payment of tax including percentage of increase envisaged in the Scheme formulated in this behalf;

(ii) Statement in the prescribed form showing the particulars of sales, purchases, etc. including utilisation of all statutory forms issued to him by his assessing authority either under the provisions of this Act or those of the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(iii) Original of declaration forms, if any, required to be furnished by him to his assessing authority in support of his claim for deduction of sales from his gross turnover;

(iv) Original of declaration forms/certificates, if any, required to be furnished by him to his assessing authority to support the claim of exemption or concessional rate of tax on the transactions relating to his turnover under this Act and also under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(4) Summary Assessment under sub-section (1) shall not be made for any year in the case of a dealer,—

(i) in respect of whom facts indicating likelihood of variations between the values of purchases or sales actually made by him and the values vouched by him in the records maintained by him or variations between the statements

made by him in the books of accounts and in his returns have been discovered in relation to the past years including the year preceding the year under assessment; or

(ii) who is a newly registered dealer in whose case no regular assessment has been done so far; or

(iii) who has closed his business and is to be assessed for the last year; or

(iv) who has not filed any one or more of his returns or has/have filed the returns beyond the time prescribed; or

(v) who is in arrears of sales tax, local or central or any other dues under this Act or the Central Sales Tax Act, 1956 (Central Act 74 of 1956); or

(vi) whose turnover during the year under assessment falls short of the turnover on the basis of which assessment was made during the preceding year by not less than 10%; or

(vii) in whose business any person who had been convicted under this Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) during the 3 years preceding the commencement of the year under assessment or who had become defaulter in respect of the dues under these Acts, has an interest; or

(viii) in respect of whom the assessment had been made on the basis of their returns furnished, without any inquiry and without production of any evidence in support of the returns in any part of the turnover in respect of any period, had escaped assessment to tax or had been under assessed or had been assessed at a lower rate, within the rate at which it was assessable or any deduction had been wrongly allowed therefrom, were subsequently discovered; or

(ix) who has not shown an increase as required under the Scheme formulated for the purpose of this section; or

(x) who is availing exemption under entries 68 and 85 of the Second Schedule to this Act as S.S.I./M.S.I./L.S.I. as the case may be, or under Sales Tax Deferment-cum-Interest Free Loan Scheme.

(5) The provisions of this section shall not apply to the assessments which have been completed prior to the coming into force of the Goa Sales Tax (Amendment) Act, 1993, even if the same has been set aside in appeal or revision and all such assessments or re-assessments as the case may be, shall be completed in accordance with the other provisions of this Act and the directions passed in appeal or revision if any, in such cases.

8. *Amendment of Second Schedule.* — In the entry 68 of the Second Schedule to the principal Act,—

(i) in item (v) of the first proviso, for the figures “1-7-1983”, the figures “23-4-1987” shall be substituted;

(ii) in the second proviso, for the figures “1-7-1983”, the figures “23-4-1987” shall be substituted.

9. *Amendment of Seventh Schedule.* — In the Seventh Schedule to the principal Act, after entry 4, the following entry shall be inserted, namely:—

“4a. aircrafts, ships, boats or vessels Twelve percent.”.

Secretariat Annexe,
Panaji,
Dated: 3-9-1993.

B. S. SUBBANNA,
Secretary to the Government of Goa,
Law Department (Legal Affairs)